UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ALBERT ADEFEMI,

                            Petitioner,

     -against-

ALBERTO GONZALES, U.S. ATTORNEY GENERAL,
et al.

                        Respondents.

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ROSS, United States District Judge:
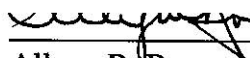
On August 27, 2005, petitioner filed a Motion for an Emergency Stay of Final Order of

Deportation in this court. Petitioner had previously filed a petition for a writ of habeas corpus in

the United District Court for the Northern District of Georgia. Pursuant to the Real ID Act of

2005 ("RIDA"), Pub. L. No. 109-13, Div. B, 119 Stat. 231 (codified at 8 U.S.C. § 1252 (2005)),

the district court in Georgia transferred the petition to United States Court of Appeals for the

Eleventh Circuit. On September 1, 2005, petitioner filed a motion in the Eleventh Circuit,

similar to the motion filed in this court, to stay the final order of his deportation. On September

20, 2005, the Eleventh Circuit sua sponte dismissed the habeas petition as frivolous and denied

all pending motions, including the request to stay the final deportation order, as moot. See

Adefemi v. U.S. Attorney General, No. 05-14832-D (11th Cir. Sept. 20, 2005). Under RIDA, the

Eleventh Circuit has exclusive jurisdiction over the petition for review. See 8 U.S.C. §

1252(b)(2); see also Marquez-Almanzar v. INS, 418 F.3d 210, 215, 216 n.6 (2d Cir. 2005).

Moreover, the Eleventh Circuit also has discretion to issue a stay of removal. See §

1252(b)(3)(B). Given that the Eleventh Circuit had exclusive jurisdiction over the petition for

review and exercised its discretion not to issue the stay, this court declines to take further action

with this case. Thus, the court dismisses petitioner's motion for a stay of final order of

deportation.

SO ORDERED.

Allyne R. Ross
United States District Judge

Dated: September 23, 2005
Brooklyn, New York